HONOURABLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No.27693 OF 2005

Between:

G. Sriram Murthy, S/o. Sri Mallaiah,

aged about 60 years, Occ: Business,

R/o.3-5-311, Vitthalwadi,

Narayanguda, Hyderabad – 500 029.

.. Petitioner

AND

The Debts Recovery Tribunal

Rep. by its Presiding Officer

5th floor, Triveni Complex,

Abids, Hyderabad – 500 001 & 2 others

.. Respondents

::ORDER::

Counsel for the Petitioner : Mr. M.V. Durga Prasad

Counsel for Respondent No.1 : None appeared.

Counsel for Respondents 2 & 3 : Mr. M.P. Ugle

28th December, 2005

Per G.S. Singhvi, CJ

This is a petition for quashing demand notice dated 19-04-2003 and sale notice dated 22-11-2004 issued by State Bank of Hyderabad-3rd respondent under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the 2002 Act').

A perusal of the record shows that State Bank of Hyderabad (for short 'the Bank') filed an application under Section 19 of the Recovery of Debts Due to Banks & Financial Institutions Act, 1993 (for short 'the Act') before the Debts Recovery Tribunal, Hyderabad (for short 'the Tribunal') against the petitioner and one K. Srinvias Prasad for recovery of the loan advanced to the latter along with interest. On receipt of the notice of the application filed by the bank, the petitioner claims to have issued notice dated 21-6-2003 for production and inspection of the relevant documents and then filed I.A. No.1666 of 2003 before the Tribunal for issuance of a direction to the Bank to supply the relevant documents.

During the pendency of the application by it, the Bank issued notice dated 19-4-2003 under Section 13 (2) of the 2002 Act requiring the petitioner to pay the amount specified therein. After 1 year and about 7 months, the Bank served possession notice dated 1-11-2004 on the petitioner. This was followed by notice dated 22-11-2004 issued under Section 13(4) of the 2002 Act. Thereupon, the petitioner filed an application before the Tribunal questioning the notices issued by the Bank under the 2002 Act. The same was registered as S.A.No.190 of 2004 and is pending before the Tribunal.

The petitioner's grievance is that on the one hand the Bank has deliberately refrained from supplying the relevant information and documents and on the other hand he is being coerced to pay the amount specified in demand notice dated 19-4-2003. His another grievance is that the Tribunal has failed to decide I.A. No.1666 of 2003 and S.A.No.190 of 2004 filed by him and, on that account,

he is being deprived of his property rights.

We have heard learned counsel for the petitioner at considerable length. In our opinion, the writ petition is liable to be dismissed as premature because it is an admitted position that the application filed by the petitioner against the notice issued under Section 13(4) of the Act is pending before the Tribunal. In that application, the petitioner has questioned the legality and proprietary of notices dated
19-4-2003 and 22-11-2004. Therefore, we do not find any valid ground to entertain his prayer for quashing of the notices.

Learned counsel for the petitioner vehemently submitted that the Tribunal is not deciding the application filed by his client. If that be so, the only course open to the petitioner is to make an application to the Tribunal in writing for expeditious adjudication of its application.

With the above observation, the writ petition is dismissed as premature leaving the petitioner to persuade the Tribunal to decide the application filed by it.

G.S. SINGHVI, C.J.

Date:28-12-2005

R. SUBHASH REDDY, J

PV/svs